



FEDERAL RESERVE SYSTEM

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice, request for comment.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) invites comment on a proposal to extend for three years, without revision, the Recordkeeping and Disclosure Requirements Associated with Securities Transactions Pursuant to Regulation H (Reg H-3; OMB No. 7100-0196).

DATES: Comments must be submitted on or before [insert date 60 days after publication in the Federal Register].

ADDRESSES: You may submit comments, identified by *Reg H-3*, by any of the following methods:

- Agency Website: <http://www.federalreserve.gov>. Follow the instructions for submitting comments at <http://www.federalreserve.gov/apps/foia/proposedregs.aspx>.
- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- E-mail: regs.comments@federalreserve.gov. Include OMB number in the subject line of the message.
- FAX: (202) 452-3819 or (202) 452-3102.
- Mail: Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW, Washington, DC 20551.

All public comments are available from the Board's website at

<http://www.federalreserve.gov/apps/foia/proposedregs.aspx> as submitted, unless modified for

technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper form in Room 3515, 1801 K Street (between 18th and 19th Streets NW) Washington, DC 20006 between 9:00 a.m. and 5:00 p.m. on weekdays.

Additionally, commenters may send a copy of their comments to the OMB Desk Officer – Shagufta Ahmed – Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street, NW, Washington, DC 20503 or by fax to (202) 395-6974.

FOR FURTHER INFORMATION CONTACT: A copy of the PRA OMB submission, including the proposed reporting form and instructions, supporting statement, and other documentation will be placed into OMB’s public docket files, once approved. These documents will also be made available on the Federal Reserve Board’s public website at: <http://www.federalreserve.gov/apps/reportforms/review.aspx> or may be requested from the agency clearance officer, whose name appears below.

Federal Reserve Board Clearance Officer – Nuha Elmaghrabi – Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202) 452-3829. Telecommunications Device for the Deaf (TDD) users may contact (202) 263-4869, Board of Governors of the Federal Reserve System, Washington, DC, 20551.

SUPPLEMENTARY INFORMATION: On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board authority under the Paperwork Reduction Act (PRA) to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board. In exercising this delegated authority, the Board is directed to take every reasonable step to solicit comment. In determining whether to

approve a collection of information, the Board will consider all comments received from the public and other agencies.

Request for comment on information collection proposal

The Board invites public comment on the following information collection, which is being reviewed under authority delegated by the OMB under the PRA. Comments are invited on the following:

- a. Whether the proposed collection of information is necessary for the proper performance of the Federal Reserve's functions; including whether the information has practical utility;
- b. The accuracy of the Federal Reserve's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;
- c. Ways to enhance the quality, utility, and clarity of the information to be collected;
- d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and
- e. Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the Federal Reserve should modify the proposal prior to giving final approval.

Proposal to approve under OMB delegated authority the extension for three years, without revision, of the following report:

Report title: Recordkeeping and Disclosure Requirements Associated with Securities Transactions Pursuant to Regulation H.

Agency form number: Reg H-3.

OMB control number: 7100-0196.

Frequency: Event-generated.

Respondents: State member banks.

Estimated number of respondents: State member banks (de novo): 1; state member banks with trust departments: 228; state member banks without trust departments: 601.

Estimated average hours per response: State member banks (de novo): recordkeeping, 40 hours. State member banks with trust departments: recordkeeping, 2 hours; disclosure, 16 hours. State member banks without trust departments: recordkeeping, 15 minutes; disclosure, 5 hours.

Estimated annual burden hours: State member banks (de novo): recordkeeping, 40 hours. State member banks with trust departments: recordkeeping, 12,768 hours; disclosure, 43,776 hours. State member banks without trust departments: recordkeeping, 4,207 hours; disclosure, 36,060 hours.

General description of report: These recordkeeping and disclosure requirements are pursuant to Sections 208.34(c), (d), and (g) of the Board's Regulation H, which require that state member banks effecting securities transactions for customers establish and maintain a system of records of these transactions, furnish confirmations of transactions to customers that disclose certain information, and establish written policies and procedures relating to securities trading. State member banks are required to maintain records created per these requirements for three years following a securities transaction. These requirements are necessary to protect the customer, to avoid or settle customer disputes, and to protect the institution against potential liability arising

under the anti-fraud and insider trading provisions of the Securities Exchange Act of 1934 (“Securities Exchange Act”).

Legal authorization and confidentiality: The Board has determined that the Regulation H requirements are authorized by Section 23 of the Securities Exchange Act, 15 U.S.C. 78w, which empowers the Board to make rules and regulations implementing those portions of the Securities Exchange Act for which it is responsible. The requirements of 12 CFR 208.34(c), (d), and (g) also are impliedly authorized by Section 9 of the Federal Reserve Act (12 U.S.C. 321-328a), which establishes the Board’s supervisory authority with respect to the safety and soundness of state member banks. Accordingly, the Board is authorized to impose these recordkeeping, disclosure, and policy establishment requirements. The obligation of a state member bank to comply with the Regulation H requirements is mandatory, save for the limited exceptions set forth in 12 CFR 208.34(a).

Inasmuch as the Board does not collect or receive any information concerning securities transactions pursuant to these requirements, no issues of confidentiality normally will arise. If, however, these records were to come into the possession of the Board, they may be protected from disclosure pursuant to exemption 4 of the Freedom of Information Act (“FOIA”), 5 U.S.C. 552(b)(4), under the standards set forth in National Parks & Conservation Ass’n v. Morton, 498 F.2d 765 (D.C. Cir. 1974), to the extent an institution can establish the potential for substantial competitive harm. They also may be subject to withholding under FOIA exemption 6, 5 U.S.C. 552(b)(6), should disclosure constitute an unwarranted invasion of personal privacy. Additionally, if such information were included in the work papers of System examiners or abstracted in System reports of examination, the information also may be protected under

exemption 8 of FOIA, 5 U.S.C. 552(b)(8). Any withholding determination would be made on a case-by-case basis in response to a specific request for disclosure of the information.

Board of Governors of the Federal Reserve System, November 21, 2017.

Ann E. Misback,

Secretary of the Board.

Billing Code 6210-01-P

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